

Minnesota General Rules of Practice for the District Courts

Provided by the Minnesota Supreme Court Commissioner's Office

TITLE VII. HOUSING COURT RULES--HENNEPIN AND RAMSEY COUNTIES

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Rule 601. Applicability of Rules

In Hennepin and Ramsey Counties, Rules 601 through 612 apply to all proceedings in Housing Court. These rules and, where not inconsistent, the Minnesota Rules of Civil Procedure, shall apply to housing court practice except where they are in conflict with applicable statutes.

Task Force Comment--1991 Adoption

These rules apply only in Hennepin and Ramsey Counties. Housing Courts created by the legislature exist only in those counties.

These rules were drafted as a joint effort of legal advisory committees for the Ramsey and Hennepin County Housing Courts. Those committees met on a number of occasions, and these rules are the result of significant drafting efforts and compromise. Those drafting committees included the Housing Court Referee, court administrator, judges, and practitioners of landlord and tenant law in each County. The rules are generally drawn from a current local rule, 4th Dist. R. 13 and the Housing Court Temporary Rules, Rule 17.

The Task Force is mindful that Housing Court is currently in existence in only Ramsey and Hennepin Counties, 1989 Minnesota Laws, chapter 328, article 2, sections 17, 18 and 19 (uncodified), and these rules should be reviewed and revised if Housing Courts are used in other districts.

Rule 602. Housing Court Referee

The housing court referee may preside over all actions brought under Minnesota Statutes, Chapter 504B, criminal and civil proceedings related to violations of any health, safety, housing, building, fire prevention or housing maintenance code, escrow of rent proceedings, landlord and tenant damage actions, and actions for rent and rent abatement, unless the matter has been removed for hearing before a judge.

A party may request that a judge hear a case by filing such request in writing with the court administrator at least 1 day prior to the scheduled hearing date.

(Amended effective January 1, 2000.)

Advisory Committee Comment--1999 Amendments

The former chapters 504 and 566 were consolidated into and replaced by a new chapter 504B. This change is not intended to have any substantive effect other than to correct the statutory reference. (Added effective January 1, 2000.)

Task Force Comment--1991 Adoption

The procedure for removal of a referee assigned in Housing Court is intended to be different, due to the exigencies of practice in that court, from the procedure created by [Minn. Gen. R. Prac. 107](#).

Rule 603. Parties

An unlawful detainer action shall be brought in the name of the owner of the property or other person entitled to possession of the premises. No agent shall sue in the agent's own name. Any agent suing for a principal shall attach a copy of the Power of Authority to the complaint at the time of filing. No person other than a principal or a duly licensed lawyer shall be allowed to appear in Housing Court unless the Power of Authority is attached to the complaint at the time of filing, and no person other than a duly licensed lawyer shall be allowed to appear unless the Power of Authority is so attached to the complaint. An agent or lay advocate may appear without a written Power of Authority if the party being so represented is an individual and is also present at the hearing.

Task Force Comment--1991 Adoption

The Task Force expresses no opinion about whether or the extent to which the role of lay advocates constitutes the unauthorized practice of law. See Minnesota Statutes, section 481.01, et seq. (1990).

Rule 604. Complaint

(a) Contents of Complaint. The plaintiff in an unlawful detainer case shall file with the court administrator a complaint containing the following:

- (1) A description of the premises including a street address;
- (2) The legal owner of the property or other person entitled to possession of the premises;
- (3) A statement of how plaintiff has complied with Minnesota Statutes, section 504B.181, by written notice to the defendant, by posting or by actual knowledge of the defendant;
- (4) The facts which authorize recovery; and,
- (5) A request for return of possession of the property.

(b) Signature. The complaint shall be signed by the plaintiff or the plaintiff's authorized agent or a duly licensed lawyer.

(c) Termination. If the complaint contains allegations of holding over after termination of the lease, a copy of the termination notice, if any, must be attached to the complaint or provided to defendant or defendant's counsel at the initial appearance, unless the plaintiff does not possess a copy of the notice or if the defendant at the hearing acknowledges receipt of the notice.

(d) **Breach.** If the complaint contains allegations of breach of the lease or rental agreement, a copy of the lease or rental agreement, if any, must be attached to the complaint or provided to defendant and defendant's counsel at the initial appearance, unless the plaintiff does not possess a copy.

(Amended effective January 1, 2000.)

Advisory Committee Comment--1999 Amendments

The former statute section 504.22 was replaced by a new statute section 504B.181. This change is not intended to have any substantive effect other than to correct the statutory reference. (Added effective January 1, 2000.)

Rule 605. Return of Summons

All summons shall be served in the manner required by Minnesota Statutes, Chapter 504B, and the affidavit of service shall be filed with the court by 3:00 o'clock p.m. 3 business days prior to the hearing or the matter may be stricken. The affidavit must contain the printed or typed name of the person who served the summons.

(Amended effective January 1, 2000.)

Advisory Committee Comment--1999 Amendments

The former chapter 560 was replaced by a new chapter 504B. This change is not intended to have any substantive effect other than to correct the statutory reference.

Rule 606. Filing of Affidavits

Upon return of the sheriff or other process server indicating that the defendant cannot be found in the county and, in the case of a nonresidential premises, where no person actually occupies the premises described in the complaint, or, in the case the premises described in the complaint is residential, service has been attempted at least twice on different days, with at least one of the attempts having been made between the hours of 6:00 and 10:00 p.m., the plaintiff or plaintiff's lawyer shall:

(1) file an affidavit stating that the defendant cannot be found or on belief that the defendant is not in the state, and

(2) file an affidavit stating that a copy of the summons and complaint has been mailed to the defendant at the defendant's last known address or that such an address is unknown to the plaintiff.

Service of the summons may be made upon the defendant by posting the summons in a conspicuous place on the premises for not less than one week. A separate affidavit shall be filed stating that the summons has been posted and the date and location of the posting.

(Amended effective January 1, 1998.)

Advisory Committee Comment--1999 Amendments

This rule is amended to conform the service requirements to the service provisions of Minnesota Statutes, section 504B.331 (Supp. 1999). The procedure of the revised rule also streamlines the procedure for issuance, service, and filing of process, and should permit service to be accomplished at a lower cost. (Amended effective January 1, 2000.)

Rule 607. Calendar Call

At the first call of the calendar the parties shall specify whether the case is a default or for trial, and if for trial, whether by court or jury. Proposed Order forms will be available at the hearing. It is the responsibility of the plaintiff to properly complete the proposed order prior to the case being called for hearing. When each case is called for hearing, the defendant shall be asked whether the defendant admits or denies the charges in the complaint. Matters involving unlawful ouster or lockouts, utility shutoffs and other emergency relief, and motions for temporary restraining orders shall be heard first, then default cases shall be heard in their calendar order, followed by contested cases triable to

the court without a jury. If a jury trial is demanded, the jury fee must be paid before the jury is impaneled. Contested cases shall be set for trial the same day as the initial hearing, if possible, or set on the first available calendar date.

Rule 608. Withheld Rent

In any unlawful detainer case where a tenant withholds rent in reliance on a defense, the defendant shall deposit forthwith into court an amount in cash, money order or certified check payable to the District Court equal to the rent due as the same accrues or such other amount as determined by the court to be appropriate as security for the plaintiff, given the circumstances of the case.

Rule 609. Restitution

A writ of restitution shall issue within 24 hours after the entry of judgment, excluding Saturdays, Sundays and legal holidays, unless a stay authorized by law is specifically ordered by the court.

Rule 610. Motions

Any motion otherwise allowed by the Minnesota Rules of Civil Procedure may be made by any party orally or in writing at any time including the day of trial. Whenever possible, oral or written notice of any dispositive motions and the grounds therefore shall be provided by the moving party to all parties prior to the hearing.

All motions shall be heard by the court as soon as practicable. The court may grant a request by any party for time to prepare a response to any motion for good cause shown by the requesting party or by agreement of the parties.

The requirements of service of notice of motions and any time periods set forth in the Minnesota Rules of Civil Procedure do not apply.

Rule 611. Review of Referee's Decision

(a) **Notice.** In all cases except conciliation court actions, a party not in default may seek judge review of a decision or sentence recommended by the referee by serving and filing a notice of review on the form prescribed by the court administrator. The notice must be filed within ten days after an oral announcement in court by the referee of the recommended order or within 13 days after service by mail of the adopted written order, whichever occurs first. Service of the written order shall be deemed complete and effective upon the mailing of a copy of the order to the last known address of the petitioner.

A judge's review of a decision recommended by the referee shall be based upon the record established before the referee. Upon the request of any party, a hearing shall be scheduled before the reviewing judge.

(b) **Stays.** In civil cases, filing and service of a notice of review does not stay entry of judgment nor vacate a judgment if already entered unless the petitioner requests and the referee orders a bond, payment(s) in lieu of a bond, or waiver of bond and payment(s). The decision to set or waive a bond or payment(s) in lieu of bond shall be based upon Minn. R. Civ. App. P. 108, subdivisions 1 & 5. A hearing on a bond or payment(s) in lieu of bond shall be

scheduled before the referee, and the referee's order shall remain in effect unless a judge modifies or vacates the order.

In criminal cases, the execution of judgment or sentence shall be stayed pending review by the judge.

(c) **Transcripts.** The petitioner must obtain a transcript from the referee's court reporter. The petitioner must make satisfactory arrangements for payment with the court reporter or arrange for payment in forma pauperis.

Any transcript request by the petitioner must be made within one day of the date the notice of review is filed. The transcript must be provided within five business days after its purchase by the petitioner.

For good cause the reviewing judge may extend any of the time periods described in this Rule 611(c).

Rule 612. Discovery

Because of the summary nature of proceedings in Housing Court, the parties shall cooperate with reasonable informal discovery requests by another party.

Upon the request of any party to a matter scheduled for trial, the presiding referee or judge may issue an order for an expedited discovery schedule.